



## UNITED STATES PATENT AND TRADEMARK OFFICE

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DIRECTOR'S OFFICE  
TECHNOLOGY CENTER 3600

Paper No. 35

Application Number: 09/458,132  
Filing Date: December 9, 1999  
Applicant: Sprague et al  
For: VERI MAG PACK

DECISION  
ON PETITION  
UNDER 37 CFR 1.181

This is a decision on the petition filed on January 9, 2003, under 37 C.F.R. 1.181, for the Director to invoke his supervisory authority to refund the three (3) month extension fee filed on January 9, 2003.

In review of the file history it is clear that the Advisory Action mailed on December 13, 2002 was made in error because it raised new formal issues that were not previously addressed. Such issues should have been presented in an *Ex parte Quayle* action. The M.P.E.P. under 706.07(f) sets forth that formal matters which are identified for the **first time**, after a final rejection, should be corrected by an *Ex parte Quayle* action.

Therefore, since an *Ex parte Quayle* action would have given the applicant 2 months to prepare his response to overcome the pending objection without filing an extension of time fee, the request for a refund of the extension of time fee under Section 1.17(a)(3) of \$465.00 has been granted.

The application has been forwarded to the Head Supervisory Applications Examiner to refund \$465.00 to deposit account no. 03-33565.

The petition for a refund has been GRANTED.

*John J. Love*  
John J. Love  
Director, Technology Center  
(703) 308-1020

JL:jw *[Signature]*

09458132  
0333565  
5.00  
Date: 04/02/2004  
ANRBI1  
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LVA/AM  
0333565  
00112766  
\$460.00  
Adjustment Date: 04/02/2004 LVA/AM  
01/23/2003 Name/Number: 09458132  
01 FC: 22500  
Ref.: 04/02/2004 LVA/AM  
DA#: 0333565  
FC: 9204